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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Proposed Revisions of)
Part 69 of the Commission's)
Rules to Allow for Incentive)
Settlement Options for NECA)
Pool Companies)

RM-8389

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REPLY COMMENTS OF THE
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

The National Telephone Cooperative Association ("NTCA") submits these Reply Comments in response to the comments filed on June 19, 1995, in this proceeding. This proceeding is examining a petition filed by the National Exchange Carrier Association ("NECA") on November 5, 1993 (NECA Petition), and Supplemental Comments filed on May 15, 1995, in this proceeding ("NECA's Supplemental Comments").¹ NECA's Supplemental Comments propose modifications to one of its optional incentive settlements plans for pool participants originally proposed in the NECA Petition.²

¹ By Public Notice, Report No, 1986, released by the Commission on November 16, 1993, the Commission sought comments on NECA's petition. Comments in this proceeding were originally filed on December 15, 1993.

² NECA's Supplemental Comments propose replacement of its original "Profit Sharing Incentive Option" with a new plan called the "Customer Dividend Option." The original "Small Company Incentive Option" remains unchanged from its original proposal in the NECA Petition.

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LIST A B C D E

NTCA is a national association of approximately 500 small local exchange carriers ("LECs") providing telecommunications services to subscribers and interexchange carriers throughout rural America. NTCA's comments urged the Commission to move forward with modification of the necessary access plan rules to broaden the settlement options available to pooling LECs consistent with the NECA proposals. NTCA emphasized that these options should supplement the existing cost study and average schedule settlement options, but should not replace these other methods. The comments of the Organization for the Protection and Advancement of Small Telephone Companies ("OPASTCO"), the United States Telephone Association ("USTA"), and ICORE, Inc. fully echo this support and conclusions regarding the dynamics and needs of NECA pooling LECs.

Three IXCs suggest some reservations over whether any desirable public benefits are likely to materialize should pooling LECs avail themselves of the NECA proposed options.³ However, these observations do not explain how these concerns are any more objectionable than similar ones associated with the already allowable incentive plans available to LECs outside the NECA pools, including LEC price caps. As with price caps, there is no empirical or definitive proof that the theoretical benefits of incentive forms of regulation ultimately result in benefit to

³ Comments of AT&T Corp. ("AT&T") at 3-5; MCI Telecommunications Corporation ("MCI") at 2-4; and General Communications, Inc ("GCI") at 2-3, all filed on June 19, 1995, in the above-captioned proceeding.

the public. Only were there to be two identical worlds, set in motion with one operating under incentive forms of regulation and the other operating under the other traditional forms, could one identify the real differences.⁴ There is no need to argue the merits of incentive regulation here; it is sufficient to observe that NECA's proposals are essentially similar in design to those already allowed elsewhere, including price caps, and should receive the same theoretical evaluation of benefits hypothesized for the other plans.

AT&T suggests that all pool members should participate in the NECA proposed incentive plans.⁵ The record in several proceedings is clear with respect to the value, expected outcome, and the public policy desirability of applying incentive forms of regulation to small or high-cost LECs, particularly for incentive plans based on a commitment to per-unit cost levels for specified periods of time, the form all incentive plans have embraced, to date. Over short periods of time and confined to narrow ranges of expected performance, small or high-cost LECs cannot risk commitments to rigid cost recovery limits. These LECs' operations are subject to small area operating fluctuations and

⁴ Service quality deterioration as the result of forced incentives to lower costs is very difficult to observe and quantify. One can only speculate on the amount of efficiency achieved as the result of regulatory incentives versus what would have been achieved had there been no changes. LEC industry trends are currently being shaped more by the unequal competitive opportunities of new entrants than by any incentive offered by regulation of prices or earnings.

⁵ AT&T at 5.

vulnerability to unanticipated drops in demand as the result of the low number of high-volume business customers that dominate traffic across their systems. These characteristics make cost recovery limits counter-productive when applied to many small LEC situations. Therefore, per-unit cost recovery limit forms of incentive regulation cannot be mandatory for small LECs. NECA's proposals cannot be mandatory for pooling LECs.⁶

Finally, MCI ironically sums up the real interest by NECA and its members in offering the proposed pooling incentive plans. MCI argues "[t]here is no valid reason why small carriers . . . cannot select one of the many plans that are already available to them."⁷ But then MCI notes the valid reason: LECs must leave the NECA pools.⁸

As NECA and the LEC industry has commented repeatedly in this matter, NECA's proposal is meant to maintain the benefits of pooling by offering regulatory options that keep pace with options available to LECs outside the pools. The availability of these options can proceed without potentially hundreds of smaller study areas being required to file individual tariffs and forced

⁶ Average Schedules remain a viable settlements option partially because they are optional. LECs faced with high or unanticipated cost recovery can use a cost study to set settlements levels. This treatment is similar to that afforded by the Commission to small cable systems. Small cable systems can establish rates based on industry formulas, or they can opt to set rates based on actual studies of cost levels.

⁷ MCI at 4. MCI discusses LECs seeking pricing flexibility, but the NECA proposals under examination in this proceeding do not involve pricing flexibility. Id.

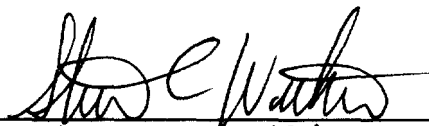
⁸ Id.


to abandon the administrative efficiencies of participating in the NECA tariff. MCI and other IXCs also benefit from the administrative efficiency of smaller LECs participating in the NECA tariff, revenue, and cost pools. Positive action on NECA's proposals are needed to guard against deterioration of the pooling benefits.

With these comments in mind, the Commission should move forward to open greater opportunities for incentive forms of regulation for pooling LECs, including extending the Average Schedule option to more small LECs.

Respectfully submitted,

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July 5, 1995

CERTIFICATE OF SERVICE

I, Rita H. Bolden, certify that a copy of the foregoing Comments of the National Telephone Cooperative Association in RM-8389 was served on this 5th day of July 1995, by first-class, U.S. Mail, postage prepaid, to the following persons on the attached list:

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